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DATE MAILED: 04/01/2005

APPLICATION NO.	FIL	ING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	ATTORNEY DOCKET NO. CONFIRMATION NO.	
10/697,193	193 10/30/2003		Howard Acum	NOR-1146	2204	
37172	7590	04/01/2005		EXAMINER		
•		EVANS, LLP (N	TUROCY, DAVID P			
2700 CARE 441 VINE S				ART UNIT	PAPER NUMBER	
CINCINNA	TI, OH 4:	5202		1762		

Please find below and/or attached an Office communication concerning this application or proceeding.

	<u>en</u>						
	Application No.	Applicant(s)					
<b></b>	10/697,193	ACUM ET AL.					
Office Action Summary	Examiner	Art Unit					
	David Turocy	1762					
The MAILING DATE of this communication a Period for Reply	appears on the cover sh	eet with the correspondence address					
A SHORTENED STATUTORY PERIOD FOR REI THE MAILING DATE OF THIS COMMUNICATIO  Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication.  If the period for reply specified above is less than thirty (30) days, a  If NO period for reply is specified above, the maximum statutory per  Failure to reply within the set or extended period for reply will, by sta Any reply received by the Office later than three months after the may earned patent term adjustment. See 37 CFR 1.704(b).	N. 1.136(a). In no event, however, reply within the statutory minimul iod will apply and will expire SIX tute, cause the application to be	may a reply be timely filed  n of thirty (30) days will be considered timely. 6) MONTHS from the mailing date of this communicat come ABANDONED (35 U.S.C. § 133).	ion.				
Status							
1) Responsive to communication(s) filed on	•	·					
2a) This action is <b>FINAL</b> . 2b) T	his action is non-final.						
3) Since this application is in condition for allow closed in accordance with the practice under	•	-	is				
Disposition of Claims							
4) Claim(s) 1-49 is/are pending in the application 4a) Of the above claim(s) is/are without 5) Claim(s) is/are allowed.  6) Claim(s) is/are rejected.  7) Claim(s) is/are objected to.  8) Claim(s) 1-49 are subject to restriction and/	drawn from consideratio		·				
Application Papers							
9) The specification is objected to by the Examiner.							
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11)☐ The oath or declaration is objected to by the							
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for fore  a) All b) Some * c) None of:  1. Certified copies of the priority docume  2. Certified copies of the priority docume  3. Copies of the certified copies of the priority document application from the International Bure  * See the attached detailed Office action for a	ents have been receive ents have been receive priority documents have reau (PCT Rule 17.2(a)	d. d in Application No been received in this National Stage ).					
Attachment(s)	•						
1) Notice of References Cited (PTO-892)	· — _	erview Summary (PTO-413)					
Notice of Draftsperson's Patent Drawing Review (PTO-948)     Information Disclosure Statement(s) (PTO-1449 or PTO/SB. Paper No(s)/Mail Date	/08) 5) 🔲 No	per No(s)/Mail Date tice of Informal Patent Application (PTO-152) ter:					
LS. Patent and Trademark Office							

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## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Claims 1-7, 14-40, drawn to an applicator for dispensing, classified in class 239, subclass 451+.
  - II. Claims 8-13, drawn to a coating apparatus with a controller, classified in class 118, subclass 663+.
  - III. Claims 41-49, drawn to method for coating, classified in class 427, subclass 421+.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because apparatus does not require a dispenser comprising a cap around the nozzle. The subcombination has separate utility such as coating a material onto a substrate without a control feature.
- 3. Inventions I and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP §

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806.05(e)). In this case apparatus as claimed can be used for an entirely different process such as dispensing water at a pressure normally used for dispensing liquid.

- 4. Inventions II and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case apparatus as claimed can be used for an entirely different process such as dispensing water at a pressure normally used for dispensing liquid.
- 5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- 6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
- 7. A telephone call was made to Richard Eby on 3/29/2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Turocy whose telephone number is (571) 272-2940. The examiner can normally be reached on Monday-Friday 8:30-6:00, No 2nd Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Turocy AU 1762

TIMOTHY MEEKS PRIMARY EXAMINER